

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD GRANBERRY,

Petitioner,

v.

SUPERINTENDENT BROOKS, et al.,

Respondents.

Civil Action No. 04-241 Erie

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on August 26, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 26], filed on October 26, 2005, recommended that the petition for writ of habeas corpus [Doc. No. 3] be denied as moot and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondents. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 10<sup>th</sup> day of November, 2005;

IT IS HEREBY ORDERED that the petition for writ of habeas corpus [Doc. No. 3] is DENIED as moot, and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 26] of Magistrate Judge Baxter, filed on October 26, 2005, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge